TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE

FISCAL MEMORANDUM

SB 1477 – HB 1536

April 7, 2014

SUMMARY OF ORIGINAL BILL: Authorizes a deduction from business taxes for any costs incurred by a natural gas marketer to take title to, transport, or deliver, natural gas to customer facilities located in Tennessee, including pipeline charges, amounts paid to purchase natural gas, and transporting pipeline demand and reservation charges. Defines a natural gas marketer as any business that is not regulated as to rates and services by the Tennessee Regulatory Authority and that provides for its customers within Tennessee: natural gas procurement, shipping, transportation, or ancillary services to procurement, shipping, or transportation of natural gas.

CORRECTED FISCAL IMPACT OF ORIGINAL BILL:

Other Fiscal Impact – According to the Department of Revenue, the annual amount owed in business taxes by natural gas marketers is approximately $532,800. Based on information provided by the Department, it is estimated that no such taxes have been collected but are owed to the state and the Department anticipates collecting them in the future. According to the Department, the proposed deduction from the business tax is estimated to result in a 95 percent reduction, or $506,200, in tax liability beginning with FY14-15, of which $209,900 would be the state's portion and $296,300 would be the local government portion. To the extent the revenue owed under current law is collected, there will be a recurring decrease in state and local revenue of such amounts. However, to the extent the revenue owed under current law is not collected, this bill will have a not significant fiscal impact on the state or local government.

SUMMARY OF AMENDMENT (016043): Deletes all language after the enacting clause. Defines "natural gas marketer" as any business that is not regulated as to rates and services by the Tennessee Regulatory Authority, that provides natural gas to customers within Tennessee through the procurement and shipping or transportation of such natural gas, and any ancillary services thereto, and that is required by the Federal Energy Regulatory Commission to take title to natural gas pursuant to Federal Energy Regulatory Commission Order No. 636-A, 57 Fed. Reg. 36128 (1992).

Expands the definition of "engaged in this state" regarding the imposition of the business tax to include making sales as a natural gas marketer to customers located within this state through the presence in this state of the seller's property, the holding of pipeline capacity by the seller on pipelines located in this state, or through the presence in this state of the seller's employees, agents, independent contractors, or other representatives acting on behalf of the seller to solicit orders, provide customer service, or conduct other activities in furtherance of such sales. Establishes that "presence in this state of the seller's property" includes property owned by the seller in Tennessee during delivery to the customer, whether in a pipeline or otherwise.

Classifies natural gas marketers as Class 5 business taxpayers and imposes a business tax rate of one fiftieth of one percent (1/50 of 1.00%) of all sales within the state, proceeds of which to be deposited in the state's General Fund. This Act shall take effect on July 1, 2014, and shall apply to tax periods that begin on or after such date.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Other Fiscal Impact – To the extent that the amount considered owed by the Department would be collected under current law, this bill as amended would result in a recurring increase in state revenue of $108,400 and a recurring decrease in local government revenue of $119,400, beginning in FY15-16.

To the extent that the amount considered owed by the Department would not be collected under current law, this bill as amended would result in a recurring increase in state revenue of $193,000, beginning in FY15-16, and would not have a significant fiscal impact to the local government.

Assumptions for the bill as amended:

- It is assumed that business tax returns for the tax period from July 1, 2014 to June 30, 2015 are due by October 15, 2015. Therefore, the first year impacted by this bill will be FY15-16.
- According to the Department of Revenue, the proposed legislation will result in a total business tax liability for affected businesses of $192,993. One hundred percent of such collections would be deposited in the state's General Fund.
- The Department estimates that, under current law, approximately $203,947 in total business tax is owed, but not collected, annually from the Tennessee sales of natural gas by natural gas marketers, of which $84,549 is the state's portion and $119,398 is the local government portion.
- To the extent that the amount considered owed by the Department would be collected under current law, this bill as amended would result in a recurring increase in state revenue of $108,444 ($192,993 - $84,549) and a recurring decrease in local government revenue of $119,398, beginning with FY15-16.
- To the extent that the amount considered owed by the Department would not be collected under current law, this bill as amended would result in a recurring increase in state revenue of $192,993, beginning with FY15-16, and would not have a significant fiscal impact to the local government.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

Lucian D. Geise, Executive Director

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